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AMERICREDIT FINANCIAL SERVICES INC. AS ASSIGNEE FROM LONG BEACH
ACCEPTANCE CORP.

UNITED STATES BANKRUPTCY COURT

EASTERN DISTRICT OF CALIFORNIA, SACRAMENTO DIVISION

In re
CALVIN SMITH,
Debtor

**AMERICREDIT FINANCIAL
SERVICES INC. AS ASSIGNEE FROM
LONG BEACH ACCEPTANCE CORP..**

Movant,

vs.

CALVIN SMITH, Debtor, TERESA A. GILES, Non-filing co-Debtor; and JAN P. JOHNSON, Chapter 13 Trustee,

Respondents.

CASE NO. 09-47319 B-13
DC No. SKI-1
Chapter 13

MOTION FOR RELIEF FROM THE
AUTOMATIC STAY AND CO-DEBTOR
STAY PURSUANT TO LOCAL RULE
4001-1 AND 9014-1(f)(1)

Hearing Date and Time:

Date: MARCH 30, 2010
Time: 9:31 A.M.
Dept: B

AMERICREDIT FINANCIAL SERVICES INC. AS ASSIGNEE FROM LONG BEACH ACCEPTANCE CORP. (hereinafter “Movant”) moves this Court for Relief from the Automatic Stay based upon the following:

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1 1. Movant is a company admitted to do business in the State of California, and is
2 engaged, among other things, in the financing of the purchase of motor vehicles by retail
3 purchasers under installment sale contracts.

4 2. Respondent, other than the Respondent designated as a Trustee, is the Debtor
5 herein, having filed a Petition under Chapter 13 on December 14, 2009. Respondent named
6 and designated herein as Trustee is the duly qualified, appointed and acting Trustee in this
7 bankruptcy proceeding.

8 3. Movant is informed and believes that Debtor and a non-filing co-Debtor,
9 TERESA A. GILES, claim an interest in a 2002 JAGUAR S-TYPE, Vehicle Identification
10 No. SAJDA03P92GM32928 (the "Vehicle") under the terms of a Motor Vehicle Contract and
11 Security Agreement with Movant. A true and correct copy of the Motor Vehicle Contract and
12 Security Agreement ("Contract") is attached as Exhibit "A" to the List of Exhibits A-D in
13 Support of AMERICREDIT's Motion for Relief from the Automatic Stay, filed herewith.
14 (And see Declaration of JIM HOGAN, filed herewith). A true and correct copy of the
15 California Certificate of Title with respect to the Vehicle is attached as Exhibit "B" to the List
16 of Exhibits A-D in Support of AMERICREDIT's Motion for Relief from the Automatic Stay,
17 filed herewith. (And see the Declaration of JIM HOGAN, filed herewith).

18 4. Movant is, and has been at all times relevant herein, the legal owner of the
19 Vehicle.

20 5. The Debtor's Chapter 13 Plan fails to provide for Movant's secured claim.
21 Debtor is currently in default to Movant for the payments coming due for October 7, 2009,
22 through and including February 7, 2010. (And See Exhibit "C" attached to the List of
23 Exhibits A-D in Support of AMERICREDIT's Motion for Relief from the Automatic Stay
24 and the Declaration of JIM HOGAN, filed herewith). (And see Declaration of JIM HOGAN,
25 filed herewith).

26 6. At all times relevant herein, Movant was not required to send monthly
27 statements, payment coupons, invoices, or other comparable documents to Debtor pursuant to
28 the terms of the underlying Contract and applicable non-bankruptcy law. (And see Exhibit

1 "A" attached to the List of Exhibits A-D in Support of AMERICREDIT's Motion for Relief
2 from the Automatic Stay and the Declaration of JIM HOGAN, filed herewith).

3 7. Movant would exercise its rights and remedies under state law but for the
4 automatic stay issued by this Court on the filing of the petition herein.

5 WHEREFORE, Movant prays for an order:

- 6 1. Terminating the automatic stay as to Movant, its successors and assigns;
- 7 2. Terminating the co-debtor stay as to Movant, its successors and assigns; and
- 8 3. Allowing Movant to proceed under applicable non-bankruptcy law to enforce its
9 remedies to repossess and sell the Vehicle;
- 10 4. That the 14-day stay prescribed by Bankruptcy Rule 4001(a)(3) be waived;
- 11 5. That the Order granting relief be binding and effective despite any conversion of
12 this bankruptcy case to a case under any other chapter; and
- 13 6. For such other and further relief as the court deems just and proper.

14 Dated: February 10 , 2010

COOKSEY, TOOLEN, GAGE, DUFFY & WOOG

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16 By: /s/ Sheryl K. Ith 
17 SHERYL K. ITH
18 Attorney for Movant
19 AMERICREDIT FINANCIAL SERVICES INC. AS
20 ASSIGNEE FROM LONG BEACH ACCEPTANCE
21 CORP.
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